

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

MICROSOFT CORPORATION,)	
a Washington corporation,)	
)	
Plaintiff,)	
)	
v.)	No. 3:04-CV-353
)	(Phillips/Shirley)
SAMUEL SELLERS, an individual d/b/a)	
SAVE MORE SALES a/k/a SAVE MORE)	
COMPUTERS, and SAMUEL SELLERS,)	
an individual,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

This matter is before the undersigned pursuant to 28 U.S.C. §636(b), the Rules of this Court, and by Order [Doc. 46] of the Honorable Thomas W. Phillips, United States District Judge, for a report and recommendation on the Plaintiff Microsoft Corporation's Motion to Quantify Attorneys' Fees and Costs [Doc. 43]. For the reasons set forth below, the undersigned **RECOMMENDS** that the Plaintiff Microsoft Corporation be awarded \$43,463.50 in attorneys' fees and \$1,815.60 in costs, for a total award of **\$45,279.10**.¹

On January 26, 2006, the District Court entered a Judgment Order [Doc. 42], granting the plaintiff's motions for summary judgment and a permanent injunction against the defendants, and awarding the plaintiff \$460,000.00 in damages for infringement of Microsoft's intellectual

¹The Clerk of the Court already taxed costs against the defendant in the amount of \$1,815.60 on April 4, 2006. [Doc. 47].

property rights. The Court further granted the plaintiff's request for attorneys' fees and costs, but took the amount of the award under advisement pending further submissions from the parties. [Id.]. Thereafter, the plaintiff submitted the present motion [Doc. 43] on February 9, 2006, along with the Declaration of James R. Michels [Doc. 44 Ex. 1], which sets forth plaintiff's fees and expenditures in detail. There has been no opposition filed to this motion. The Court finds that such failure to respond to be a waiver of any opposition to the relief sought. See E.D. TN. LR 7.2.

Furthermore, the undersigned has reviewed Michels' Declaration and finds the award for fees and costs sought by the plaintiff to be reasonable. It is therefore **RECOMMENDED**² that the Plaintiff Microsoft Corporation's Motion to Quantify Attorneys' Fees and Costs [Doc. 43] be **GRANTED** and that the plaintiff Microsoft Corporation be awarded \$43,463.50 in attorneys' fees and \$1,815.60 in costs, for a total award of **\$45,279.10**.

Respectfully submitted,

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge

²Any objections to this Report and Recommendation must be served and filed within ten (10) days after service of a copy of this recommended disposition on the objecting party. Such objections must conform to the requirements of Rule 72(b), Federal Rules of Civil Procedure. Failure to file objections within the time specified waives the right to appeal the District Court's order. Thomas v. Arn, 474 U.S. 140, 106 S. Ct. 466 (1985). The district court need not provide de novo review where objections to this report and recommendation are frivolous, conclusive or general. Mira v. Marshall, 806 F.2d 636 (6th Cir. 1986). Only specific objections are reserved for appellate review. Smith v. Detroit Federation of Teachers, 829 F.2d 1370 (6th Cir. 1987).